

875—218.209(91D) Percentage limitations on nonexempt work.

218.209(1) An employee will not qualify for exemption as an administrative employee if the employee devotes more than 20 percent, or, in the case of an employee of a retail or service establishment if the employee devotes as much as 40 percent, of the hours worked in the workweek to nonexempt work; that is, to activities which are not directly and closely related to the performance of the work described in 218.2(1) to 218.2(3).

218.209(2) This test is applied on a workweek basis and the percentage of time spent on nonexempt work is computed on the time worked by the employee.

SOURCE: 29 CFR 541.209.